



MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION JULY 25, 2007

Chair John Bauer called the meeting to order at 7:30 p.m. Present at the meeting were Vice-Chair Lenny Levy, Commissioners Matthew Hopkins and Lloyd Kaufman, Alternate Commissioner Geri Lanier, Planning and Code Administration Director Greg Ossont, Planning Director Lauren Pruss, Community Planning Director Trudy Schwarz, Planners Patricia Patula and Caroline Seiden, and Recording Secretary Linda Kobylski. Chair Bauer noted Alternate Commissioner Lanier would participate this evening, since not all Commissioners were present. Absent: Commissioner Danny Winborne.

I. APPROVAL OF MINUTES

July 11, 2007, Planning Commission Meeting

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to APPROVE the Minutes of the July 11, 2007, Planning Commission Meeting, as submitted this evening.

Vote: 4-0-1 (Abstained: Bauer)

II. CONSENT

AFP-07-022 -- Washingtonian Woods 511 Midsummer Drive Clubhouse AMENDMENT TO FINAL PLAN REVIEW	MXD Zone
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AFP-07-023 -- Powell Residence – Pheasant Run 5 Seville Way 256-Sq.Ft. Sunroom and Deck AMENDMENT TO FINAL PLAN REVIEW	R-90 Cluster
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AFP-07-026 -- Dunn Residence 505 Kent Oaks Way Two-Story Addition AMENDMENT TO FINAL PLAN REVIEW	MXD Zone
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Vice-Chair Levy moved, seconded by Commissioner Hopkins, to APPROVE the Consent Agenda.

Vote: 5-0

IV. RECOMMENDATIONS TO MAYOR AND COUNCIL

SDP-07-001 -- Request for approval of an amendment to schematic development plan, **SDP-05-003**, known as Casey East (Parcels 360, 563 and N455) in

Gaithersburg, Maryland. The approved plan is a mix of uses, including 382 residential units, office, restaurant, retail, service station, and public uses on approximately 40.10 acres of land. The current application (SDP-07-001) requests approval to redistribute the number and type of dwelling units among the three residential buildings, reduce the height of Building C from seven to five stories, reduce the mixed use retail by 1,700 square feet, increase the Senior Center from 10,000 to 29,500 square feet, and amend the phasing plan. The subject property is located northwest of the intersection of Maryland Route 355 (North Frederick Avenue) and Watkins Mill Road, Gaithersburg, Maryland.

Planner Seiden located the property on an aerial photograph and briefly reviewed the staff analysis of this application, noting that in June 2006, SDP-05-003 was approved by the City Council. One year later, the applicant applied for an amendment. Planner Seiden summarized the changes, including elimination of a pedestrian path through the stream valley, replaced by an eight-foot promenade connecting Building R with the Senior Center.

Vice-Chair Levy was concerned with the inconvenience of eliminating the pedestrian path. Planner Seiden explained that the promenade would better preserve the stream valley. Chair Bauer noted that if the path was later preferred a waiver would be required. Commissioner Kaufman felt access for seniors would be easier with a promenade.

Chair Bauer questioned if the income requirement for Moderately Priced Dwelling Units (MDPU), as noted in Condition 6, was a negotiable term or part of the City program. Planner Seiden explained that when originally approved, there was no affordable housing program and that the original condition has been amended to reflect the City's current program.

Chair Bauer felt the Leadership in Energy & Environmental Design (LEED) requirement, as shown in Condition 24, was vague and questioned how it would be monitored. Planner Seiden explained it is an encouragement. The only LEED requirement for the applicant is for Office Building K but staff did not want to ignore the remaining buildings. Planning and Code Administration Director Ossont explained that compliance could be measured with the final site plan.

Chair Bauer, in reference to Condition 25, asked if floor plans were available. Planner Seiden explained this information was not yet available but would be included as part of the building permits and the condition will be carried through as part of the final site plan. Chair Bauer asked who would define the amenities as outlined in Condition 30. Planner Seiden said they would be defined by the applicant, but would meet recreational amenities required by the City.

Chair Bauer stated he was impressed with the plan and felt the concept to move forward with a larger Senior Center was outstanding. Vice-Chair Levy complimented the applicant for their decision to move the age restricted building next to the Senior Center.

Planner Seiden voiced staff's recommendation for approval with conditions that she listed, with a minor revision to Condition 2, as listed below.

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to recommend to the City Council APPROVAL of SDP-07-001 – Casey East Property, with the following conditions:

1. The project shall be phased as follows:
Phase 1 commences at approval of the final site plan and shall permit the following:

Buildings and associated infrastructure: Building S (Office/Bank); Building A (office and residential condos above deck), Building B (restaurant), Building C (residential condo, with retail above deck including associated clubhouse, pool and tennis court), Building D (restaurant), Building F (retail), Building G (restaurant), Building H (restaurant), Building L (restaurant), Building M (retail), Building P (Police facility and associated future parking deck), Building Q (city senior center), parking decks under future Building K and all other parking and related facilities for the above, as required. Provided that the number of available parking spaces provided never falls below the required number of parking spaces, parking may be initially constructed as surface parking to City standards and then replaced with buildings and structured decks as shown on the SDP.

Phase 2 commences at beginning of construction of the Watkins Mill Road Interchange and shall permit the following:

Buildings: Building E (retail), I (restaurant), J (retail), K (Office above deck); N (service station), O (bank), and R (age-restricted residential condos and retail above deck) and parking and related infrastructure for the above, as required. Provided that the number of available parking spaces provided never falls below the required number of parking spaces, parking may be initially constructed as surface parking to City standards and then replaced with buildings and structured decks as shown on the SDP.

The property included in the Second Phase is intended to be fully developed and not held as open space (except as shown on the submitted SDP), and such development density noted above is intended to commence construction concurrent with the commencement of construction of the Watkins Mill Interchange. If the Watkins Mill Interchange project has not commenced on or before March 1, 2015, or is abandoned by the Maryland State Highway Administration (SHA), the Developer may apply to the City for an amendment to the Sketch Plan.

2. Applicant is to construct Watkins Mill Road Extended from Md. Rte. 355 to the proposed interchange on the east side of I-270, and complete build out of Watkins Mill Road from Md. Rte. 117 to the proposed interchange on the west side of I-270 in accordance with the Memorandum of Understanding executed on February 28, 2007 (Exhibit #89);
3. Prior to submission of the final site plan, the applicant shall enter into an Agreement of Dedication requiring the Applicant to dedicate that portion of the Property as shown on the SDP for (i) the Watkins Mill Interchange, (ii) the 6-9 lanes for Watkins Mill Road Extended, (iii) the Montgomery County 6th District Police Station, and (iv) the City of Gaithersburg's Senior Center. Applicant shall then, upon request by the appropriate entity, dedicate at no cost that portion of the

property for construction of (i) the Watkins Mill Interchange to the State of Maryland or its affiliate, (ii) the 6-9 lanes for Watkins Mill Road Extended to the State of Maryland (or its affiliate), Montgomery County or the City of Gaithersburg, as they ultimately agree, (iii) the Montgomery County 6th District Police Station to Montgomery County, and (iv) the Senior Center to the City of Gaithersburg;

5. The applicant shall place all environmentally sensitive areas, as identified on the schematic development plan, under a permanent conservation easement to be recorded on a plat. The applicant and its successors and assigns shall own and be responsible for maintaining all areas within the conservation easement and shall be entitled to reimbursement from the other owners and tenants within the project under terms of the leases and other agreements;
6. The applicant shall, as part of the Agreement of Dedication, provide the following for each residential building under the City's Affordable Workforce Housing Program as part of the proposed residential component within the development: 6.25 percent MPDU's, 6.25 percent Workforce Housing, and 5 percent Workforce Housing for income-qualified City employees, public safety workers or teachers. The applicant has agreed that the work force housing units must be priced to be affordable to families and households earning 90 percent of the Washington Area Median Income, and the MPDU units must be priced to be affordable to families or households earning 60 percent of the Washington Area Median Income.
7. Applicant is to work with City and Montgomery County Transportation staff to develop, fund in the amount of \$500,000, and implement a Transportation Demand Management Plan to mitigate the effects of the proposed development on surrounding intersections. As an alternative, the applicant, the City Manager, and Montgomery County could reach an agreement whereby the Montgomery County Department of Transportation would administer and manage the TDM Plan. The applicant must escrow \$500,000 or an equivalent bond or letter of credit with the City to fund the TDM Plan prior to applying for final site plan approval. Applicant is to provide a preliminary plan at final site plan. A Transportation Demand Management Plan shall be operational at the time that the first certificate of occupancy is issued;
8. Applicant is to record a Declaration of Restrictions, Covenants and Easements prior to the issuance of any site development permits;
9. Applicant shall be required to construct the tennis court, pool and clubhouse generally shown on the SDP concurrently with the construction of Building C condominium;

10. Applicant shall continue to work with staff to eliminate and/or minimize the use of the several remaining retaining walls proposed throughout the site during the final site plan process;
11. Applicant shall work with City Staff on the continued refinement of pedestrian and bicycle linkages between buildings and throughout and around the site. A final pedestrian/bicycle plan shall be reviewed as part of the final site plan;
12. Applicant shall work with City staff on location of paths adjacent to and traversing sensitive areas, including a sign program for such path, bike racks, etc., extending to and from the site and through the site during the final site plan stage;
13. The applicant shall receive final approval letters from appropriate utility agencies including, but not limited to, Washington Gas, PEPCO, Verizon, and WSSC prior to the issuance of Public Works permits for each phase;
14. The final utility plan shall be approved by DPWPM&E prior to the issuance of Public Works permits for each phase;
15. Applicant shall obtain letter of agreement from SHA for access from Md. Rte. 355 and for any grading/disturbance of the revertible slope easement along Md. Rte. 355 prior to approval of final site plan;
16. Applicant shall submit a concept storm water management plan and receive approval by Department of Public Works, Park Maintenance and Engineering prior to the submission of final site plan;
17. Applicant must submit a preliminary/final storm water management plan as part of the final site plan application;
18. Applicant must obtain approval of the preliminary Forest Conservation Plan prior to the submission of final site plan;
19. Applicant is to work with staff on design guidelines, including a comprehensive sign package, to be adopted by the Planning Commission prior to final site plan approval;
20. Applicant must obtain approval of the environmental waiver and mitigation plan for any intrusion into the stream valley buffer, as recommended by Staff, from the Mayor and City Council prior to final site plan approval;
21. Applicant must obtain road code waivers, as recommended by Staff, from the Mayor and City Council prior to final site plan approval;

22. Applicant shall submit a noise analysis for current and future traffic noise impacts on the site and a noise abatement plan as part of the final site plan application. Noise abatement measures should seek to achieve the 65 dBA exterior noise guideline and the 45 dBA interior noise guideline.
23. As part of building permit application and prior to approval of building permits, the applicant shall submit certification by a professional engineer with competency in acoustical analysis that the building shells will attenuate exterior noise levels to an interior level not to exceed 45 dBA Ldn. A final noise mitigation plan shall be reviewed and approved by staff prior to the issuance of building permits;
24. The developer, working with the City and a developer retained LEED certified professional shall obtain LEED Silver certification for Building K (office) within twelve (12) months of initial occupancy. The developer shall also incorporate architecturally acceptable and commercially reasonable LEED elements, such as healthy buildings, into the design of Building R (age-restricted condominium and parking deck) and encourage sustainable design;
25. Applicant is to ensure that the design of all multi-story buildings with ground floor retail accommodate mechanical vent shafts through all floors for the first floor units;
26. Preliminary road profiles and grades are to be submitted as part of the final site plan application;
27. Applicant is to work with staff to locate new bus shelters near the Travis Avenue and Watkins Mill Road entrances to the development. The bus shelters shall be the City prototype without advertising;
28. Applicant is to provide Art in Public Places Program (AIPP) and commit funding to be approved by city staff and AIPP committee during final site plan stage;
29. Applicant is to redesign the Watkins Mill Road/Restaurant Row and Spectrum Avenue/North Frederick Avenue intersections to better accommodate the primary turning movements into the development and to enhance the vistas at the intersections.
30. Amenities for Buildings A and R are to be defined at final site plan;
31. Applicant is to provide screening and buffering of service roads adjoining Watkins Mill Road and North Frederick Avenue, in accordance with the Frederick Avenue Corridor Plan; and

32. Applicant is to refine residential building elevations to further differentiate each building as a unique structure.

Vote: 5-0

- Z-305(o) -- Request to rezoning of 8,673 square feet of land, part of what is currently known as Parcel 100, in the Oakmont Subdivision, located at 100 Central Avenue, in the City of Gaithersburg, from the existing R-A (Low Density Residential) Zone to the R-90 (Medium Density Residential) Zone, under the Optional Method of rezoning, in accordance with §24-196 (map amendments) and §24-198 (optional method) of the City Code.

Planning Director Pruss located the property on an aerial photograph and briefly reviewed the staff analysis of this application. She explained this is an administrative amendment necessary to comply with technical requirements of the Zoning Ordinance.

Commissioner Hopkins had concerns regarding storm water management. Chair Bauer noted that problems with storm water management would be resolved at the time of final site plan.

Staff recommended approval of the application with three conditions, as listed below.

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to recommend to the City Council APPROVAL of Zoning Map Amendment Z-305(o) with the following three conditions.

1. The applicant and the City shall re-negotiate Annexation Agreement X-176 for the correction of zoning designation and language;
2. The applicant shall provide a forest conservation easement that will serve as a covenant for the 8,673 square feet of the rezoned property for the purpose of conserving open space. The forest conservation easement will apply to the 2.8-acre stream valley buffer.
3. The applicant shall prepare and record a record plat in the Montgomery County Land Records.

Vote: 5-0

V. SITE PLANS

- AFP-07-018 -- Hyatt Summerfield Suites C-2 Zone
200 Skidmore Boulevard
Monument Sign
AMENDMENT TO FINAL PLAN REVIEW

Planner Patula located the site and introduced the applicant, noting that the proposed sign exceeds the eight-foot maximum permitted by the Sign Ordinance. Section 24-213 of the Sign Ordinance requires that a sign be brought into conformance at the time of structural alteration, which includes change of sign face.

Sign Vendor for the applicant, Richard Keeney, Northcraft Signs, presented the sign plan for the property owner. Mr. Keeney described the site and stated the new sign will be the same size as the existing sign. The only change is the addition of the word Hyatt and their new logo. The background color is blue and the letters and logo will be white.

Chair Bauer confirmed the overall height of the existing sign is 12 feet. Vice-Chair Levy pointed out that even though the height of the proposed sign was the same, the verbiage was in a lower location, possibly decreasing its visibility and thought the word Hyatt rather than the Hyatt logo should be elevated for better visibility. Mr. Keeney explained that Hyatt preferred this arrangement.

Commissioner Hopkins expressed concern for the foliage at the site. Planning Director Pruss explained that a site inspection had been conducted, and staff believes the site is substantially as shown in the packet. Although some trimming of trees had occurred in the past, it did not occur as part of this application.

Commissioner Kaufman asked how much the new sign would exceed current height restrictions. It was clarified that the existing sign of 12 feet is four feet higher than the eight feet allowed by right in the ordinance. Director Pruss explained the maximum height allowed via staff approval is eight feet and that the Planning Commission can grant approval up to 12 feet.

Chair Bauer requested that addition of a base landscape plan be captured as a condition because the application did not reference a base landscape plan. Planner Patula explained that while the base landscape plan is required in the ordinance as part of the permit application, it could be added as a condition.

Planner Patula voiced staff's recommendation to approve the plan with one condition.

Vice-Chair Levy moved, seconded by Alternate Commissioner Lanier, to grant AFP-07-018 - Hyatt Summerfield Suites, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance Article IX with one condition.

1. Applicant to provide sign base landscape plan at the time of permit application as shown in Exhibit 5.

Vote: 5-0

CSP-07-001 --	GE Technology Park	I-3 Zone
	100 Edison Park Drive	
	Three Office/Warehouse Buildings	
	Totaling 202,175 Square Feet	
	CONCEPT PLAN REVIEW	

Planning Director Pruss reviewed the location and introduced the applicant.

Attorney for the applicant, Barbara Sears, Linowes and Blocher, introduced the applicant and its team and stated she represents Avalon Bay Communities who is the contract purchaser of the property.

Engineer for the applicant, Gary Unterberg, Rodgers Consulting, described the site plan. He explained the site is zoned I-3 and that a concept plan has been submitted. Mr. Unterberg outlined the three buildings proposed and their locations and reviewed the proposed development and site using a PowerPoint presentation. Ms. Sears requested that Mr. Unterberg's exhibits and presentation be entered into the record. Chair Bauer and Director Ossont confirmed that the information would be entered into the record.

Ms. Sears emphasized they are referring to one record lot of approximately 51.57 acres. She noted the entire 99-acre property was annexed into City in 1989 by the National Geographic

Society. The property was then subdivided in anticipation of individual lot sales. Ms. Sears contended that the application should be governed by the development standards and requirements of the I-3 Zone and the Annexation Agreement along with § 24-170 of the City Code. Ms. Sears stated the Special Condition of the Master Plan that indicates that Map Designation 1 area remain undeveloped is unlawful and contrary to the Annexation Agreement. In closing, Ms. Sears requested that the Planning Commission approve the Concept Site Plan, allow the proposed development and acknowledge that the Annexation Agreement should take precedent over the Master Plan.

The following was testimony from the public.

Marsha Hopp, 303 Kent Oaks Way, expressed concern for how the development might affect traffic flow.

Richard Arkin, 121 Selby Street, stated that the Planning Commission's responsibility is to uphold the Zoning Ordinance and Master Plan. Mr. Arkin did not feel the plan is what the community or Mr. Kent, the prior owner of the property who sold it to the National Geographic Society, had in mind.

Planning Director Pruss voiced staff's recommendation for the Planning Commission to direct staff to prepare an opinion resolution to deny CSP-07-001, GE Technology Park.

Planning and Code Administration Director Ossont indicated the staff analysis was prepared prior to some of the current submissions. Those submissions have been reviewed and staff has not revised its staff analysis.

Commissioner Hopkins questioned whether there was Maryland case law that allowed for increased value in a property. Ms. Sears stated the Master Plan has two options, I-3 is the standard, and the other is to voluntary rezone to MXP. She emphasized that if I-3 is used, one must abide by the development standards and the Annexation Agreement.

Vice-Chair Levy was concerned that staff prepared a report without addressing all the legal arguments raised by the applicant due to when the documents raising those arguments were submitted by the applicant. He felt the City Attorney should determine how the City should respond to these arguments. Chair Bauer stated the Planning Commission must make their findings based on five conditions, not on legal findings or legal precedent. Chair Bauer cited § 24-170(A) of the City Code which states the Planning Commission must make their decisions based on the Master Plan adopted by the Mayor and City Council. Chair Bauer suggested the decision be deferred until they receive an analysis from the City Attorney. Vice-Chair Levy, Commissioners Hopkins and Kaufman, along with Alternate Commissioner Lanier, agreed that an analysis from the City Attorney was necessary. Mr. Ossont noted that even though City Attorney Borten was not present, she had reviewed all the material submitted and that Ms. Borten would be able to provide an analysis for the next scheduled Planning Commission meeting.

Vice-Chair Levy moved, seconded by Commissioner Hopkins, to DEFER further consideration of CSP-07-001 – GE Technology Park, to a later meeting in order to obtain additional direction from staff.

Vote: 5-0

VI. FROM THE COMMISSIONCommissioner Kaufman

1. Expressed concern over sheds that have appeared in the Kentlands Square parking lot near Lowe's and Mattress Discounters and requested it be investigated.
2. Requested information on issues he had raised at the July 11 meeting. Director Ossont explained that information was not yet available but would be forthcoming.

Chair Bauer

Complimented the pedestrian crossing signals at Lakelands Drive and Great Seneca Highway that were recently retrofitted.

VII. FROM STAFFCommunity Planning Director Schwarz

Listed the Commissions' upcoming meetings, workshops for the Kentlands Boulevard Commercial District Charrette, and a joint public hearing on the Aquatic Center. Chair Bauer commended staff for a job well done on the Transportation Workshop held on July 24.

Planning and Code Administration Director Ossont

Announced the Planning Commissioner's stipend was increased to \$3000 by a resolution of the Mayor and City Council.

Planning Director Pruss

Staff researched possible training courses at the University of Maryland appropriate for the Planning Commissioners; no such course is currently available. Staff is now considering other possible resources from the American Planning Association and the Urban Land Institute. Vice-Chair Levy asked about a possible tour of the Rockville Town Center. Director Pruss stated that a poll of the Planning Commissioners would soon be conducted to determine their availability for a tour.

VIII. ADJOURNMENT

There being no further business to come before this session, the meeting was duly adjourned at 9:36 p.m.

Respectfully submitted,

L. Kobyski
Recording Secretary